

OFFICIAL COPY

Fresno, California

September 17, 2002

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Brad Castillo	Acting Council President
	Jerry Duncan	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Councilmember
	Henry Perea	Council President

Dan Hobbs, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Pastor Bob Macias gave the invocation, and a Bullard High School student led the Pledge of Allegiance to the Flag.

PROCLAMATION OF CITY OF FRESNO PAYROLL SECTION DAY - CITY MANAGER HOBBS

PROCLAMATION OF JOSEPH AND JOSHUA SOLENO DAY - COUNCILMEMBER QUINTERO

PROCLAMATION OF HARRY SUSSMAN AND JOHN VALENTINO DAY - COUNCILMEMBER QUINTERO

PROCLAMATION OF CALIFORNIA MILK ADVISORY BOARD'S HAPPY COW COMMERCIALS - COUNCILMEMBER DUNCAN

CERTIFICATES OF RECOGNITION TO DISTRICT 7 STUDENTS - PRESIDENT PEREA

COMMENDATION TO SISTER CITY MUENSTER, GERMANY - COUNCILMEMBER CALHOUN

PROCLAMATION OF GARY JANZEN DAY - COUNCILMEMBER RONQUILLO

The above proclamations and certificates were read and presented.

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APPROVE MINUTES OF AUGUST 27 AND 29, 2002

On motion of Councilmember Calhoun, seconded by Councilmember Quintero, duly carried, RESOLVED, the minutes of August 27 and 29, 2002, approved as submitted.

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APPROVE AGENDA:

(1-V) AWARD A CONTRACT FOR THE INSTALLATION OF CITY-OWNED PULSE BOILERS AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT

Upon question of Acting President Castillo, City Clerk Klisch advised the material for the above item was labeled and placed under 2:20 P.M. in the packet. So noted.

(3-B) * BILL NO. B-44 (INTRODUCED 8/27/02) - ADDING SECTION 8-220 TO THE FRESNO MUNICIPAL CODE RELATING TO AGGRESSIVE AND ABUSIVE SOLICITATIONS AND SOLICITATION IN PROHIBITED PLACES

Set for 3:00 p.m. this date **(2 - 0)**.

(2-C) * BILL FOR INTRODUCTION - AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE TO STREAMLINE THE REZONING PROCESS AND MAKE MINOR CLARIFICATION CHANGES TO OTHER SECTIONS OF THE ZONING ORDINANCE (TEXT AMENDMENT NO. TA-02-01)

Removed from the agenda at the request of staff.

(1-T) APPROVE AN AGREEMENT WITH THE COUNTY OF FRESNO FOR LIMITED FUNDING OF TRAFFIC SAFETY ENFORCEMENT - COUNCILMEMBER CALHOUN

Councilmember Calhoun removed his name from the item.

On motion of Councilmember Ronquillo, seconded by Acting President Castillo, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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Councilmember Boyajian advised he visited FMFCD Director Doug Harrison and stated although he was still paralyzed and unable to speak he was getting movement in his legs and arms and was in good spirits and getting better.

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ADOPT CONSENT CALENDAR:

(1-B) ADOPT SUCCESSOR LABOR AGREEMENT WITH THE FRESNO AIRPORT PEACE OFFICERS/FIREFIGHTERS ASSOCIATION UNIT 11 (FAPOFA/ASSOCIATION) COVERING THE PERIOD JULY 1, 2002, TO JUNE 30, 2005

1. * RESOLUTION NO. 2002-285 - 2ND AMENDMENT TO SALARY RES. 02-219 REFLECTING THE ADOPTION THE SUCCESSOR LABOR AGREEMENT

(1-C) RESOLUTION NO. 2002-286 - ESTABLISHING 10% DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM GOALS FOR DBE PARTICIPATION IN U.S. DEPARTMENT OF TRANSPORTATION (DOT) ASSISTED CONTRACTS FOR THE FEDERAL HIGHWAY ADMINISTRATION (FHWA), FEDERAL AVIATION ADMINISTRATION (FAA), AND FEDERAL TRANSIT ADMINISTRATION (FTA)

(1-D) AWARD A CONTRACT FOR THE BASE BID AND ADD-ALTERNATE 1 (PVC PIPE) AS THE LOWEST COMBINATION, TO KELLY CONSTRUCTION OF CLOVIS IN THE AMOUNT OF \$43,741 FOR INSTALLATION OF AN 8" WATER MAIN IN W. SAN JOSE AVENUE EAST AND WEST OF N. DEL MAR AVENUE

(1-E) AWARD A CONTRACT TO DAVE CHRISTIAN CONSTRUCTION OF FRESNO IN THE AMOUNT OF \$260,944.13 FOR GLENN, CALAVERAS, HOME AND FLORADORA AVENUES INSTALLATION OF STREET IMPROVEMENTS

(1-F) AWARD A CONTRACT TO AMERICAN PAVING COMPANY OF FRESNO IN THE AMOUNT OF \$108,505 FOR HOLMES NEIGHBORHOOD PLAYGROUND IMPROVEMENTS

(1-H) RESOLUTION NO. 2002-287 - AUTHORIZING THE PARKS AND RECREATION DEPARTMENT'S SUBMISSION, IN PARTNERSHIP WITH THE SAN JOAQUIN RIVER PARKWAY AND CONSERVATION TRUST, OF A GRANT APPLICATION IN THE AMOUNT OF \$690,000 FROM THE WILDLIFE CONSERVATION BOARD FOR IMPROVEMENTS ON THE LEWIS S. EATON TRAIL

Councilmember Calhoun commended staff for their initiative in applying for the grant.

(1-I) * RESOLUTION NO. 2002-288 - 23RD AMENDMENT TO AAR 02-216 APPROPRIATING \$20,500 TO PURCHASE AND INSTALL TREES PLANNED FOR THE NEWLY CONSTRUCTED SECTION OF THE SUGAR PINE TRAIL

(1-J) * RESOLUTION NO. 2002-289 - 20TH AMENDMENT TO AAR 02-216 APPROPRIATING \$49,700 IN GRANT FUNDS FROM THE CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION, URBAN FORESTRY GRANT PROGRAM, TO REPLANT MISSING STREET AND MEDIAN ISLAND TREES

(1-L) APPROVE LEASE AMENDMENT NO. 4 TO THE AVIATION LAND AND BUILDING LEASE AND AGREEMENT WITH SKYWEST AIRLINES, INC., AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE SAME ON BEHALF OF THE CITY

(1-M) AUTHORIZE THE ACCEPTANCE OF FISCAL YEAR 2002-2003 GRANT FUNDS FROM THE STATE OF CALIFORNIA OFFICE OF CRIMINAL JUSTICE PLANNING FOR THE JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT PROGRAM

1. * RESOLUTION NO. 2002-290 - 10TH AMENDMENT TO AAR 02-216 APPROPRIATING \$161,800 FOR THE POLICE DEPARTMENT'S JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANT

(1-O) RESOLUTION NO. 2002-291 - INTENT TO ANNEX FINAL TRACT NO. 4988 TO THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 39, AND AUTHORIZE THE LEVY OF SPECIAL TAXES

(1-P) RESOLUTION NO. 2002-292 - APPROVING FINAL MAP OF TRACT NO. 5011 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, PHASE IV OF VESTING TENTATIVE TRACT NO. 4570, PROPERTY LOCATED ON THE NORTH SIDE OF E. CALIFORNIA AVENUE BETWEEN S. CLOVIS AND S. SUNNYSIDE AVENUES

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE

2. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR FRONT YARD TREES

(1-Q) RESOLUTION NO. 2002-293 - 5TH AMENDMENT TO PAR 02-217 BY DELETING SIX POLICE OFFICER POSITIONS WHICH WERE ADDED TO THE DEPARTMENT IN FY 2002 TO BACKFILL FOR THE MILITARY RESERVE DEPLOYMENT

(1-R) RESOLUTION NO. 2002-294 - APPROVING ACCEPTANCE OF A GRANT OF \$115,000 FROM THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR A VULNERABILITY ASSESSMENT OF WATER DIVISION FACILITIES, AND AUTHORIZING THE DIRECTOR OF PUBLIC UTILITIES TO EXECUTE ALL NECESSARY DOCUMENTS

1. * RESOLUTION NO. 2002-295 - 21ST AMENDMENT TO AAR 02-216 APPROPRIATING \$115,000 IN GRANT FUNDS FOR THE WATER DIVISION FACILITIES VULNERABILITY ASSESSMENT

(1-S) RESOLUTION NO. 2002-296 - APPROVING THE FINAL MAP OF TRACT NO. 4487 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, PROPERTY LOCATED ON THE NORTH SIDE OF W. AUDUBON AVENUE NORTHWEST OF THE INTERSECTION OF N. MAROA AVENUE

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE

2. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, UGM FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

3. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR COMMON SEWER HOUSE BRANCH

(1-T) APPROVE AGREEMENT WITH THE COUNTY OF FRESNO TO PROVIDE REVENUE TO THE CITY FOR INCREASED LAW ENFORCEMENT ACTIVITIES RELATED TO TRAFFIC SAFETY; AND AUTHORIZE THE COUNCIL PRESIDENT AND CITY MANAGER TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1-U) APPROVE APPOINTMENTS OF ENRIQUE READE TO THE HUMAN RELATIONS COMMISSION/ COUNCILMEMBER RONQUILLO; HUE VANG TO THE HUMAN RELATIONS COMMISSION/ACTING PRESIDENT CASTILLO; AND CAM MALOY TO THE HISTORIC PRESERVATION COMMISSION/MAYOR AUTRY)

On motion of Acting President Castillo, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(9:00 A.M.) ACCEPT REPORT TO COUNCIL AND PROVIDE DIRECTION REGARDING THE SUMMARY OF RESULTS OF THE SIGN ORDINANCE COMMITTEE MEETINGS

Councilmember Duncan recused himself from the proceedings due to a conflict of interest and left the meeting at 9:23 a.m.

City Attorney Montoy and Deputy City Attorney Slater gave a brief overview of the issue and advised amendments could be made to accommodate some of the recommendations and clean up the ordinance, and spoke to the need to bifurcate permanent and temporary signs for better enforcement and explained.

Barbara Hunt, 2475 S. Walnut, spoke to the need for businesses to have signs to advertise their business.

Councilmember Calhoun reviewed the background of the issue, stated it was time to take action and move forward in a fair and aggressive manner to make the community attractive, spoke to the options available, and made a motion to direct staff and the City Attorney's Office to rewrite the sign ordinance to accomplish options 1, 2 and 3 as outlined in the staff report, which motion was seconded and acted upon after discussion.

Mr. Slater, Ms. Montoy, Planning Manager Beach and an unidentified staff member responded to questions and/or comments of Councilmembers Quintero, Boyajian, Ronquillo and Acting President Castillo relative to whether new businesses are given information on permitted signs, how buildings without addresses were dealt with and if that issue was included in the ordinance, need for exceptions and/or flexibility for diverse/unique areas such as the Tower District, request for staff to report back on how the sign ordinance has affected businesses, need to be sensitive to existing businesses, need to inform people up front what is allowed when rehabilitating older buildings, and Councilmember Calhoun clarifying the staff report allowed for flexibility and that the report before Council was what came out of the meetings that were held. Councilmember Ronquillo left the dais at 9:42 a.m.

An unidentified staff member responded to questions of Acting President Castillo relative to whether an enforcement plan in place with Acting President Castillo stating he wanted city-wide enforcement and not just targeted areas. Mr. Hobbs stated staff could report back after adoption of the ordinance with an enforcement plan to obtain Council's input.

On motion of Councilmember Calhoun, seconded by President Perea, duly carried, RESOLVED, staff directed to rewrite the sign ordinance to accomplish Options 1, 2 and 3 as outlined the staff report, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Quintero, Perea
Noes	:	None
Absent	:	Ronquillo
Recused	:	Duncan

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Councilmembers Duncan and Ronquillo returned to the meeting at 9:48 a.m.

(9:15 A.M.) COUNCIL DISCUSSION/ACTION REGARDING CITY ENGAGING IN CONSTRUCTION PROJECTS SUCH AS PARKING LOTS, MEDIAN ISLAND CONSTRUCTION (NEIGHBORHOOD INFRASTRUCTURE PROJECTS EXEMPTED) - PRESIDENT PEREA

1. SHOULD PROJECTS BE PUT OUT FOR BID WITH THE CITY ALLOWED TO BID?
2. IF YES, DEVELOP BID CRITERIA WORKING IN CONJUNCTION WITH THE CONSTRUCTION INDUSTRY THAT PROVIDES A LEVEL FIELD FOR ALL BIDDERS

President Perea noted Councilmember Duncan made a request earlier to table the matter and advised there were a number of people in attendance who have wanted to discuss the issue for some time and requested Council move forward as scheduled.

On motion of Councilmember Duncan, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled issue tabled four (4) months, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero
Noes	:	Castillo, Ronquillo, Perea
Absent	:	None

Councilmember Ronquillo stated the title was real specific and he would work on bringing back the matter in another version.

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(9:45 A.M.) HEARING TO CONSIDER INITIATION OF R-A/UGM ZONING ON FOUR PROPERTIES LOCATED ON THE EAST SIDE OF N. MAPLE BETWEEN E. COPPER AND E. INTERNATIONAL AVENUES (10618, 10636, 10658 AND 10700 N. MAPLE AVENUE, APNs 578-010-6, 7, 8, 9) - COUNCIL DISTRICT 6

1. **RESOLUTION NO. 2002-297 - INITIATING R-A/UGM ZONING ON THE SUBJECT PROPERTIES**

President Perea announced the time had arrived to consider the issue and opened the hearing. Councilmember Ronquillo left the meeting briefly at 9:50 a.m. Planner Braun gave a brief overview of the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

Upon call, no one else wished to be heard and President Perea closed the public hearing.

Upon question of Councilmember Duncan, Mr. Braun stated questions presented in a letter from Everett Thomas, an area property owner, had been addressed satisfactorily.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried. RESOLVED, the above entitled Resolution No. 2002-297 hereby adopted, by the following vote:

Ayes	:	Calhoun, Castillo, Duncan, Quintero, Perea
Noes	:	Boyajian
Absent	:	Ronquillo

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(3-A) AMENDING SECTION 4-101 OF CHAPTER 4 OF THE

Councilmember Boyajian stated banks with a vision for downtown and who have been supportive of downtown the inner-city needed to be considered, with Assistant City Manager Souza and Controller Quinto stating the amendment would allow for that flexibility and reflect what was more practical in the decision making process and

Barbara Hunt, 2475 S. Walnut, spoke in opposition to the issue.

Discussion

Councilmember Boyajian and Acting President Castillo relative to whether banks would be notified of the amendment, will decide what bank(s) will be retained, if more than one bank could be chosen, the RFP process and criteria, if local **(3 - 0)** giving first consideration to banks, local or not, who share the goal for downtown, and clarification that local preference was already included in the RFP

motion of Acting President Castillo, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled Bill No. B-43 adopted as Ordinance No. 2002-47, by the following vote:

:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
:	None
:	None

(10:00 A.M. #1) HEARING ON THE VACATION OF CLARK STREET AND THE CALRK-DIANA ALLEY BETWEEN DIVISADERO AND MCKENZIE AVENUES, ILLINOIS AVENUE BETWEEN DIANA AND FRESNO STREETS, AND ALL THE STREETS AND ALLEYS BETWEEN CLARK AND FRESNO STREETS FROM ILLINOIS TO MCKENZIE AVENUES, AND RESERVING AN EASEMENT AND RIGHT-OF-WAY FOR PUBLIC WATER MAIN PURPOSES OVER A PORTION OF ILLINOIS AVENUE BETWEEN DIANA AND THESTA STREETS - R.I. NO. 1022-D

1. * RESOLUTION NO. 2002-298 - ORDERING THE VACATION OF ILLINOIS BETWEEN DIANA AND FRESNO STREETS AND ALL THE STREETS AND ALLEYS BETWEEN VALERIA AND FRESNO STREETS FROM ILLINOIS TO MCKENZIE AVENUE

2. * RESOLUTION NO. 2002-299 - ORDERING THE VACATION OF THE CLARK-DIANA ALLEY, CLARK STREET, THE CLARK-VALERIA ALLEY AND VALERIA STREET BETWEEN ILLINOIS AND MCKENZIE AVENUES

3. * RESOLUTION NO. 2002-300 - ORDERING THE VACATION OF THE CLARK-DIANA ALLEY AND CLARK STREET BETWEEN ILLINOIS AND DIVISADERO STREET, AND DIVISADERO BETWEEN DIANA AND CLARK STREETS

President Perea announced the time had arrived to consider the issue and opened the hearing. Engineering Services Manager Kirn gave a brief overview of the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 . Walnut, spoke in opposition to the vacation. Acting President Castillo left the meeting briefly at 10:12 a.m.

Upon call, no one else wished to be heard and President Perea closed the hearing.

On motion of President Perea, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled Resolution Nos. 2002-298, 2002-299 and 2002-300 hereby adopted subject to the conditions specified therein and reserving an easement and right-of-way for public water main purposes over a portion of Illinois Avenue between Diana and Thesta Streets, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	Castillo

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(10:00 A.M. #2) HEARING ON CITY OF FRESNO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 38 - FINAL TRACT MAP NOS. 5007, 5011 AND 5081

1. RESOLUTION NO. 2002-301 - ANNEXING TERRITORY TO CFD NO. 2 AND AUTHORIZING THE LEVY OF A SPECIAL TAX

2. RESOLUTION NO. 2002-302 - CALLING SPECIAL MAILED-BALLOT ELECTION

3. RESOLUTION NO. 2002-303 - DECLARING ELECTION RESULTS

4. * BILL NO. B-50 - ORDINANCE NO. 2002-48 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2002-2003 AND FUTURE TAX YEARS WITHIN AND RELATING TO CFD NO. 2, ANNEXATION NO. 38
(* DISCUSSED AGAIN AFTER THE LUNCH RECESS (RE-CORRECTION MADE))

President Perea announced the time had arrived to consider the issue and opened the hearing. Engineering Services Manager Kirn recommended approval and **made a clarification/correction to Exhibit B, Table 1, correcting the per residential unit amount for Tract 5007 to \$48.46 instead of \$47.70.

Upon call, no one else wished to be heard and President Perea closed the hearing.

On motion of Councilmember Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution Nos. 2002-301, 2002-302 and 2002-303 hereby adopted, and the above entitled Bill No. B-50 adopted as Ordinance No. 2002-48, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	Castillo

(**Correction withdrawn by staff after the lunch recess)

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(10:15 A.M.) HEARING ON THE VACATION OF RELINQUISHED RIGHT-OF-WAY ALONG THE WEST SIDE OF FREEWAY 168 BETWEEN RIALTO AND SAN GABRIEL AVENUES, AND AUTHORIZE AND DIRECT THE PUBLIC WORKS DIRECTOR TO EXECUTE A DEED CONVEYING THE VACATED AREA TO THE ADJACENT PROPERTY OWNER - R.I. 1029-D

1. * RESOLUTION NO. 2002-304 - ORDERING THE VACATION OF THE RELINQUISHED RIGHT-OF-WAY AND AUTHORIZING AND DIRECTING THE PUBLIC WORKS DIRECTOR TO EXECUTE A DEED CONVEYING FEE TITLE TO THE VACATED AREA TO THE ADJACENT OWNER

President Perea announced the time had arrived to consider the issue and opened the hearing. Engineering Services Manager Kirn gave a brief overview of the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2002-304 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	Castillo

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RECESS - 10:16 A.M. - 10:32 A.M.

(10:30 A.M.) CONSIDERATION OF STREET NAME CHANGE REQUEST BY GRANITE CONSTRUCTION TO CHANGE THE NAME OF A SEGMENT OF SOUTH ANGUS AVENUE SOUTH OF EAST DOROTHY TO "GRANITE COURT" (DISTRICT 3)

Planning Manager Beach reviewed the issue as contained in the staff report as submitted, advised the necessary findings would be brought back in one week in a resolution format as requested by the City Attorney, and recommended approval subject to adopting the final resolution next week.

Discussion ensued with Mr. Beach, a Granite Construction representative, City Manager Hobbs and City Attorney Montoy clarifying issues and/or responding to questions or comments of Acting President Castillo and Councilmembers Boyajian, Calhoun and Ronquillo relative to the name change process, cost and who was responsible, if the cost had been discussed with Granite Construction, Granite Construction's \$1,500 payment made to initiate the name change, if any additional costs would be incurred, costs for name changes being a way to obtain needed revenues and need for the City to look at these types of innovative revenue streams, staff reporting back in 30 days on all services the City provides and subsidizes, if a study was currently underway on the street name change policy, and Granite Construction's contributions to the community and their request being an appropriate one.

On motion of Councilmember Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, staff to bring back a Resolution containing findings to change the name of a segment of South Angus to Granite Court in one week for final action, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

Acting President Castillo requested staff include in the report how costs were arrived at.

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(5-A) CONSIDER APPROVAL FOR A COUNCIL OVERRIDE OF RESOLUTION NO. 2002-283 VETOED BY MAYOR AUTRY ON SEPTEMBER 6, 2002 (REQUIRES 5 AFFIRMATIVE VOTES) - COUNCILMEMBER RONQUILLO

1. RESOLUTION NO. 202-283 - WAIVING MATCHING FUND REQUIREMENTS FOR FOUNDRY PARK DEVELOPERS, L.P., IN THE AMOUNT OF \$154,485 FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS RELATED TO COMMUNITY FACILITIES DISTRICT NO. 5

Councilmember Calhoun advised he received requests to hear the matter later and requested it be heard later in the afternoon. President Perea stated his support and recommended 4:00 p.m. Councilmember Ronquillo spoke in support of hearing the matter at this time stating it was not a big issue.

On motion of Councilmember Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, Item 5A approved for consideration at this time, by the following vote:

Ayes	:	Boyajian, Duncan, Quintero, Ronquillo
Noes	:	Calhoun, Castillo, Perea
Absent	:	None

Councilmember Ronquillo questioned how many people wanted to speak to the issue (with Councilmember Calhoun responding), and stated the matter had been debated and discussed before and agreed to hear it later as requested. By Council consensus the matter was set for 4:00 p.m.

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UNSCHEDULED ORAL COMMUNICATIONS

APPEARANCE BY BARBARA HUNT REGARDING: (1) POPULATION GROWTH AND ADDING TWO ADDITIONAL COUNCIL MEMBERS, (2) IF EMPLOYEES' PRESENCE AT MEETINGS WAS PAID FOR BY THE CITY OR DEVELOPERS, (3) CONFLICTS OF INTEREST WITH COUNCILMEMBERS AND CERTAIN PROJECTS; (4) HER COMMENTS ON ISSUES NOT BEING INCLUDED THE MINUTES, (5) CONCERN WITH PAYING FOR COUNCIL MATERIAL/ITEMS, AND (6) CONCERN WITH THE GENERAL CONSENT CALENDAR AND NOT DISCUSSING ISSUES SEPARATELY

Appearance made.

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RECESS - 10:52 A.M. - 2:08 P.M.

PROCLAMATION OF VOTER REGISTRATION WEEK

Read and presented.

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(10:00 A.M. #2) HEARING ON CITY OF FRESNO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 38 - FINAL TRACT MAP NOS. 5007, 5011 AND 5081

1. RESOLUTION NO. 2002-301 - ANNEXING TERRITORY TO CFD NO. 2 AND AUTHORIZING THE LEVY OF A SPECIAL TAX
2. RESOLUTION NO. 2002-302 - CALLING SPECIAL MAILED-BALLOT ELECTION
3. RESOLUTION NO. 2002-303 - DECLARING ELECTION RESULTS
4. * BILL NO. B-50 - ORDINANCE NO. 2002-48 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2002-2003 AND FUTURE TAX YEARS WITHIN AND RELATING TO CFD NO. 2, ANNEXATION NO. 38
(* APPROVED EARLIER IN THE MEETING)

City Attorney Montoy advised staff's correction made earlier on the amount to be levied was being withdrawn and advised staff was requesting the original amount of \$47.70 be reflected. So noted.

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(2:00 P.M. #1) CONTESTED CONSENT ITEMS:

(1-A) * RESOLUTION NO. 2002-305 - 18TH AMENDMENT TO AAR 2002-216 APPROPRIATING \$4.5 MILLION TO FUND THE AWARD OF THE CONTRACT FOR THE POWER GENERATION FACILITY

Assistant Public Utilities Director Weimiller clarified issues and responded to questions of Acting President Castillo relative to whether this was for the installation of two generators, if the power generation facility would be a full-blown facility, how the megawatts of power would be used, if the City would be paying for the electricity being freed up, number of megawatts needed to run the wastewater treatment plant, how long it would be before the City recovered the \$4.5 million cost, when a profit would be realized, amount of savings per year and if a plan was in place on how the savings would be used, and who made the ultimate decision on how the savings would be used.

On motion of Acting President Castillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2002-305 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

(1-G) REJECT ALL BIDS FOR CONSTRUCTION OF A BIKE PATH AND STREET IMPROVEMENTS ON THE NORTH SIDE OF W. HERNDON AVENUE FROM MARKS TO PLEASANT AVENUES (COVENTRY COURT)

Councilmember Calhoun stated he would oppose the issue as this was his district project that was deferred from FY 03's budget, two projects were brought together to save money, the cost for the project would increase in the next fiscal year, and work on Herndon Avenue would be delayed **(4 - 0)**.

On motion of President Perea, seconded by Councilmember Ronquillo, duly carried, RESOLVED, all bids for street improvements on Herndon Avenue from Marks to Pleasant Avenue hereby rejected because the funds for the Coventry Court portion of the project were removed from the FY 03 budget and the bid proposal required a single award, by the following vote:

Ayes	:	Boyajian, Castillo, Quintero, Ronquillo, Perea
Noes	:	Calhoun, Duncan
Absent	:	None

(1-K) RESOLUTION NO. 2002-306 - AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE-PURCHASE AGREEMENT AND CERTAIN SEPARATE LEASE SCHEDULES WITH RESPECT TO THE ACQUISITION PURCHASE, FINANCING AND LEASING OF EQUIPMENT FOR THE PUBLIC BENEFIT, AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS REQUIRED IN CONNECTION THEREWITH

Acting President Castillo stated his questions were answered by staff and made a motion to approve.

On motion of Acting President Castillo, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled Resolution No. 2002-306 approving a Master Lease-Purchase Agreement with Pitney Bowes Credit Corporation hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

(1-N) APPROVE A NEW THREE-YEAR UNDERGROUND UTILITY DISTRICT PLAN

Engineering Services Manager Kirn clarified issues and responded to questions and concerns of Councilmember Calhoun relative to the process used to determine areas for undergrounding, how priorities are identified, wish that the process would have continued on Blackstone further south of Shields for beautification, and cost to business owners not being an acceptable reason to stop the undergrounding south of Shields. Councilmember Calhoun stated he was not asked for his input and suggested action be delayed to obtain additional information on the process and on continued undergrounding on Blackstone south of Shields. Transportation Manager Madewell spoke to the urgency of the issue and further clarified the process and dollars involved.

A motion of Councilmember Calhoun to table the matter two weeks died for lack of a second.

City Manager Hobbs stated staff could conduct a workshop on the issue if so directed. Mr. Madewell clarified issues and responded to comments and questions of Councilmember Boyajian relative to years of effort to underground utilities in the Tower District, if P.G. & E. provided the funding, the City not being locked into the three year plan if approved, if P.G. & E. or the City determined locations, if undergrounding was required for all new development, and how older areas like the Tower District could get the service if they are not included in the plan.

A motion and second was made to approve staff's recommendation, and Mr. Madewell responded to additional questions of Councilmembers Ronquillo and Castillo relative to whether there was current policy requiring the laying of underground conduit for future needs, why the Chestnut, Bullard to Shaw project was in the plan since an EIR was being conducted on the specific area, if the project was being constructed by P.G. & E., if costs for that project could be applied to a higher priority project, and what happens to the funding if the Chestnut project is not completed by 2003-2004.

On motion of Councilmember Duncan, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the revised Three-Year Underground Utility District Plan hereby approved, by the following vote:

Ayes	:	Boyajian, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	Calhoun
Absent	:	None

(1-V) AWARD A CONTRACT FOR THE INSTALLATION OF CITY-OWNED PULSE BOILERS AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT

Deputy Transportation Director Card, Wallace Donnelly, and Kevin Michael, Airport architect clarified issues and responded to questions of Councilmember Calhoun relative to why the Engineer's estimate was way off and why the City was paying more than they should. President Perea left the meeting at 2:55 p.m. and returned after the recess.

On motion of Councilmember Duncan, seconded by Councilmember Ronquillo, duly carried, RESOLVED, a contract hereby awarded to HPS Mechanical, Inc. of Bakersfield for the Base Bid in the amount of \$359,38 for the installation of pulse boilers at the Fresno Yosemite International Airport, by the following vote:

Ayes : Boyajian, Castillo, Duncan, Quintero, Ronquillo
Noes : Calhoun
Absent : Perea

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RECESS - 2:56 P.M. - 3:00 P.M.

(3-B) * BILL NO. B-44 - ORDINANCE NO. 2002-49 - ADDING SECTION 8-220 TO THE FRESNO MUNICIPAL CODE PROHIBITING AGGRESSIVE AND ABUSIVE SOLICITATIONS AND SOLICITATIONS IN PROHIBITED PLACES

City Attorney Montoy noted testimony and input were given at the last meeting and staff was present to answer questions.

Speaking to the issue were: Marsha Simpson, 2882 E. Huntington Boulevard #116, support for the ordinance; and Barbara Hunt, 2475 S. Walnut, opposed.

Mayor Autry stated a lot of misinformation had caused controversy and read a portion of a letter he received indicating the mis-perceptions of people; stressed the ordinance would not prohibit people from begging or asking for money and spoke to the problem with the present ordinance; and stated the new ordinance was not an attack on the homeless, it preserved free speech rights, and urged Council's support. Chief Dyer added this was not anti-homeless or anti-panhandling **(5 - 0)** but an anti-aggressive soliciting ordinance and explained.

Vidal Medina, 8252 N. Price, representing persons with disabilities, requested clarification on *non*-abusive and *non*-aggressive and what areas solicitation *could* occur, with Ms. Montoy and Deputy City Attorney Donaldson responding at the request of Acting President Castillo. Discussion continued with Mr. Donaldson, Capt. Nevarez and Ms. Montoy responding at length to additional questions, comments and concerns of Acting President Castillo relative to whether solicitors running across lanes of traffic and people with signs at intersections/on median islands would be considered aggressive or in violation of the vehicle code, concern with labeling panhandlers as alcoholics, if aggressive panhandlers had ever been arrested, enforcement process and if lack of jail space had been discussed with the DA's office, follow-up and if solicitors would be coerced into treatment, if most panhandlers were homeless, what the City/police department hoped to see with the new ordinance, police currently not having the authority to tell people to stop soliciting, concern with what is and is not aggressive/abusive and who makes that determination, feeling that solicitation should either be allowed or not allowed straight across the board, concern that selective enforcement will occur, if consideration has been given to people who *give* money, and clarifications made on (1) why soliciting cannot be banned outright, (2) other abusive/aggressive ordinances being upheld up in court, and (3) the enforcement and Court processes.

Ms. Montoy responded briefly to questions of Councilmember Duncan relative to whether the ordinance would prohibit panhandling and why the ordinance was needed, with Councilmember Duncan speaking in support of the ordinance emphasizing it had nothing to do with the homeless, and made a motion to adopt, which motion was seconded and acted upon after additional discussion.

Chief Dyer responded to questions of Councilmember Ronquillo relative to percentage of solicitors who are abusive/aggressive and if the City was prepared to expend the necessary resources to cite and follow through with the process. Councilmember Ronquillo spoke to his personal experiences with panhandlers, to the need for the ordinance, and to the need to be compassionate to those who are truly in need and hungry. President Perea spoke in opposition to the ordinance at length and reiterated his concerns stating he did not see anything compassionate about it, it was anti-homeless and anti-poor, it sent the wrong message to the community, and it was meaningless, and expressed his concerns with statements made by top Diamond Group and City officials on certain issues and with the attitude permeating around the ordinance and elaborated.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Bill No. B-44 adopted as Ordinance No. 2002-49, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero, Ronquillo
Noes	:	Castillo, Perea
Absent	:	None

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(3:30 P.M.) DISCUSS PRESENCE OF UNIVERSITY OF CALIFORNIA IN DOWNTOWN FRESNO - COUNCILMEMBER CALHOUN

Councilmember Calhoun stated his intent was to discuss the University of California's (UC) plans or opportunities for the Fresno area and explore the potential of downtown Fresno serving as the logical hub for the UC region activity; **(6 - 0)** reviewed the issue at length referencing older studies/reports conducted by the city on the role of the UC in Fresno and spoke to pertinent issues contained in the reports relative to downtown's major advantages and what the City could do to assist the UC through redevelopment law, CDBG, loan programs, enterprise and now the empowerment zones, and housing programs; and spoke to the following issues: (1) the historic strides made in downtown revitalization, (2) downtown having the largest concentration of employees in the entire central valley, (3) number of students currently pursuing post-secondary education and, besides the UCSF and Shaw facilities, the limited opportunities for students downtown, (4) UC Merced being a one-hour commute one way, and (5) UC's generous funding mechanism.

Upon Councilmember Calhoun's request Planning and Development Director Yovino and Redevelopment Director Fitzpatrick expanded further on what downtown Fresno could offer to the UC. Councilmember Calhoun spoke briefly to UC's quality presence in other cities and made a motion, which was changed to a request to City and Agency staff, to work with the UC President's Office to explore options for an education center downtown that could include California State University, Fresno and the State Center Community College District, and return with a feasibility report within the next 60 days.

Larry Salinas, Director of Government Relations for UC Merced, and Brandy Ramos Nikeido, Regional Communications Director, UC Office of the President, spoke to the upcoming UCSF facility, the Shaw Avenue facility, the UC Merced campus, and what UC was doing within downtown Fresno, the greater Fresno area, and the San Joaquin Valley region.

Barbara Hunt, 2475 S. Walnut, spoke in support of the issue.

Councilmember Duncan commended Councilmember Calhoun for his leadership and along with Councilmember Ronquillo and President Perea spoke briefly in support and commended UC's commitment to Fresno. No action was necessary and there was no further discussion.

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(3:45 P.M.) APPEARANCE BY BARBARA HUNT TO DISCUSS VARIOUS CITY ISSUES

Appearance made; no action taken.

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(3:50 P.M.) APPEARANCE BY NORMAL PIMENTEL TO DISCUSS THE FRESNO HIGH NEIGHBORHOOD AREA

Request to appear withdrawn.

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(5-A) CONSIDER APPROVAL FOR A COUNCIL OVERRIDE OF RESOLUTION NO. 2002-283 WAIVING MATCHING FUND REQUIREMENTS FOR FOUNDRY PARK DEVELOPERS, L.P., IN THE AMOUNT OF \$154,485 FOR PUBLIC INFRASTRUCTURE IMPROVEMENTS RELATED TO COMMUNITY FACILITIES DISTRICT NO. 5, VETOED BY MAYOR AUTRY ON SEPTEMBER 6, 2002 (REQUIRES 5 AFFIRMATIVE VOTES) - COUNCILMEMBER RONQUILLO

Councilmember Ronquillo noted extensive dialog had already occurred and made a motion to override the Mayor's veto, which motion was seconded by Councilmember Duncan.

Dave Brode, representing Foundry Park Developers, City Attorney Montoy and City Manager Hobbs clarified issues and/or responded at length to questions and comments of Councilmembers Boyajian, Ronquillo and Calhoun relative to specifics of the project, how long the property had been vacant/underutilized, if the City assisted with the project financially, if the City was encouraged with the project, current status of the project, number of employees (**7 - 0**), the project's second phase and number of additional employees, worth of property before and after development, Phase II investor and additional improvements, total value of the project, public streets and improving economic conditions being at issue, Councilmember Calhoun (1) stating the wrong subject was being addressed and the agreement/letter commitment was the issue, (2) referenced and read from a 1999 staff report that there was an obligation of the developer, and (3) questioned why this payment would not be considered a gift of public funds, Mr. Hobbs clarifying the developer agreed in writing and the points in the resolution were not germane to the issue, and acknowledged Council had the authority to change the agreement but staff was not in agreement, Mr. Brode stating the economic development director said the City could pay the amount with gas tax funds and that Foundry Park agreed to pay the match if they could from bond funds, and Councilmember Boyajian stressing public safety was provided for the community and this was not benefitting the developer, and questioned how this matter has hurt Foundry Park's ability to obtain investors.

Marsha Simpson, 2881 E. Huntington Blvd. #116, submitted and read a letter from John Ferdinandi Jr., President, Fresno Area Residents for Rail Consolidation, opposing the waiver, a copy of which is on file in the office of the City Clerk.

Ms. Montoy, Engineering Services Manager Kirn, Mr. Hobbs and Assistant City Manager Souza responded to questions and comments of President Perea relative to whether Foundry Park promised to pay only if they could from bond funds, if there could be a legal issue if the waiver is approved, if the City would have to pay if the funds were waived, concern with setting a precedent, if staff discussed this issue with Mark Bayhi, and Council being in a precarious position and suggestion to delay the matter one week to determine if staff maybe acted outside of their scope of authority and stated the funds could be waived.

A motion of President Perea, seconded by Acting President Castillo, to table the matter one week to talk with and obtain additional information from staff failed, by the following vote:

Ayes	:	Calhoun, Castillo, Perea
Noes	:	Boyajian, Duncan, Quintero, Ronquillo
Absent	:	None

Upon question of Councilmember Ronquillo staff confirmed the funds were State Proposition 111 funds, no funds would come from the general fund, the funds were specifically for road improvements, the subject intersection was a public intersection and not inside the private development, and that Council had the legal right/authority to make changes and decisions and reallocate funds. Councilmember Ronquillo expressed his concern with the issue and emphasized a developer put up “big money” to finish the project which had real serious problems and urged Council to do the right thing and override the veto.

The vote was called for and Acting President Castillo advised he had just received the staff report referenced by Councilmember Calhoun and requested a few minutes to review the report.

RECESS - 5:33 P.M. - 5:42 P.M.

Councilmember Ronquillo agreed to the matter being delayed one week to allow for the presence and testimony of Mr. Bayhi.

On motion of Councilmember Ronquillo, seconded by President Perea, duly carried, RESOLVED, the matter continued to September 2,4 2002, at 2:00 p.m., by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

Councilmember Boyajian stated the case of proving a contract in court would be difficult and would cost the City a lot of money. Ms. Montoy clarified the public testimony portion of the issue had been closed except for the testimony in one week of Mr. Bayhi.

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(2:00 P.M. #2) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE TO LITIGATION:

1. CLAIMS OF SIMPLEX GRINNEL LP, SUCCESSOR-IN-INTEREST TO SIMPLEX TIME RECORDER CO., RELATING TO FYI AIRPORT SECURITY ACCESS CONTROL SYSTEM UPGRADE PROJECT
2. SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
3. CLAIM OF LAURA FERRIS

(B) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: COF V. RON PATTERSON, REDI-CORP OF CENTRAL CALIFORNIA

(C) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. MARY HETHERINGTON V. COF
2. COF V. LADISLAO VASQUEZ PINEDA AND SAIDA ROJAS
3. ALVINA BANNISTER, ET AL. V. COF, ET AL.
4. COF V. COUNTY OF FRESNO, LAFCO AND CITY OF CLOVIS

The City Council met in closed session in Room 2125 at the hour of 5:47 p.m. to consider the above issues and adjourned thereafter.

(D) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - TITLES:

1. CITY ATTORNEY
2. CITY CLERK

Laid over one week.

CLOSED SESSION OF THE REDEVELOPMENT AGENCY:

(E) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - TITLE: REDEVELOPMENT AGENCY EXECUTIVE DIRECTOR

(F) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: ONE POTENTIAL CASE, CASE NAME UNSPECIFIED. DISCLOSURE OF TITLE WOULD JEOPARDIZE ABILITY TO EFFECTUATE SERVICE OF PROCESS

The above matters laid over one week.

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ADJOURNMENT

There being no further business to bring before the Council, the hour of 7:30 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

APPROVED on the 24th day of September, 2002.

Henry Perea, Council President

ATTEST: Yolanda Salazar, Assistant City Clerk

